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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,469	12/18/2001	Manabu Nishizawa	100809-00106(SCEY 19.288)	6181

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EXAMINER	
MOSSER, ROBERT E	

ART UNIT	PAPER NUMBER
3714	

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/024,469	NISHIZAWA ET AL.	
	Examiner	Art Unit	
	Robert Mosser	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 May 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,7-12,16-20,24 and 25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3, 7-12, 16-20, 24, and 25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

▲

Claims 1-3, 7-12, 16-20, 24, and 25 are rejected.

This action is Final.

▼

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim **2, 11,** and **19** rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term "fastening" in claims 2, 11, 19 are used by the claim to mean ""the insertion of the implied event operation program routines into real-time program operation" (as understood by arguments submitted May 25th, 2004), while the accepted meaning is "the process of securing and object". The term is indefinite because the specification does not clearly redefine the term.

Applicant has presented arguments directed to this language in their response to the non-final office action of January 26th, 2004 however these arguments are held non-persuasive. In particular the cited passage from the instant application fails to directly state the meaning of the term in question and though the applicant's suggested meaning is included in presented arguments, there is in sufficient support for this interpretation in the specification as filed and passages thereof cited by applicant.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims **1-2, 7, 9, 10, 11, 16, 18, 19,** and **24**, are rejected under 35 U.S.C. 103(a) as being unpatentable over either White (US 5,386,494) or Wang (US 6,456,977) in view of Tsai et al (US 6,352,432).

White teaches an object display method capable of selecting a selecting table (White100; Wang 64,66) from a plurality of selection tables wherein each selection table further includes a plurality of event information that indicates the operations of an object (White105; Wang 68,70). White further discloses the selecting of an event from the selected selection table and the controlling the display object to conduct operations in accordance with the event selected or alternatively described as identifying one or more parameters based on a speech command (White 119, Wang 20) in a cursor control device of White (White Figure 5 & 6) or alternatively in a voice control module for a game controller of Wang. Further the invention of White discloses the steps of recognizing voice (speech) and controlling the display of objects based on the voice recognition step (White Figure 5; Wang Col 4:18-55).

White and Wang are silent as to varying the change amount based on the volume of the voice recognized at the voice recognition step, however in an analogous reference Tsai et al discloses the use of voice volume for the variation of parameters in a battle game (Figure 11 & Elm s94-s97). It would have been obvious to one of ordinary skill in the art at the time of invention to have incorporated the voice volume dependence of Tsai et al in the invention of White in order to expand the input range by capturing volume data.

The definition for fastening as set forth by the applicant in the response dated May 25th, 2004 describes the processes of executing the desired command without delay and is interpreted as being met by the references above in so much as they are voice input driven devices.

Claims **3,12,** and **20** are rejected under 35 U.S.C. 103(a) as being unpatentable over either White (US 5,386,494) or Wang (US 6,456,977) in view of Tsai et al (US 6,352,432) in yet further view of Niwa (US 6, 371,856).

The invention of White/Tsai and Wang/Tsai are silent regarding the use of random numbers for the selection of event information, however in an analogous reference Niwa teaches the inclusion of random number for determining the progression of a game.

It would have been obvious to one of ordinary skill in the art at the time of invention to have incorporated the random numbers of Niwa into the invention of either White/Tsai or Wang/Tsai in order to keep a game from being predictable by random events (Col 9:42-10:49).

Claims **8,17,** and **25** are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang (US 6,456,977) in view of Tsai et al (US 6,352,432) in yet further view of Logg (US 4,905,147).

The invention of Wang/Tsai teaches the use of weapons (68) and the selection means described above in the rejections under 35 U.S.C. 102(b) but is silent as to the number of game characters or that the controls are specifically related to a combat game. In an analogous reference Logg teaches the use of multiple player characters in a game. It would have been obvious for one of ordinary skill in the art at the time of invention to have incorporated the multiple characters of Logg in the invention of

Wang/Tsai in order to allow the player voice control of multiple characters rapidly (Col 1:13-38).

Response to Arguments

Applicant's arguments filed 5-25-2004 have been fully considered but they are not persuasive.

Applicant argues that the system of Tsai teaches a binary result and not a "variable" result. The result of Tsai is shown in figure 12B to be a variable result based on the use of counters (Fig 8). Further though these variable results (The scores 71 and 70 shown un figure 12b) are compared to produce a win or loose condition that condition in of itself is a variable result in so much that it may be one of two options.

Applicant argues that the Wang and Tsai reference "effectively" teach away from each other as Wang is dependent of speech recognition while Tsai is dependent on the other related sound features including volume. The applicant is reminded that in order for a combination to be destructive a reference must either explicitly or implicitly teach away from the component introduced. In this case both systems are reliant on verbal communication from a user and the analysis of that verbal communication, the addition and/or adaptation of these analysis techniques clearly teaches towards each other and fails to separate.

Finally the applicant though acknowledging the reference and rejections based on White (US 5,386,494) has failed to respond to the reference and rejections in their assertion of patentability. The examiner has taken the arguments as presented towards

the Wang reference as also intended to address the White reference for the purposes of furthering prosecution.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Mosser whose telephone number is (703)-305-4253. The examiner can normally be reached on 8:30-4:30 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

REM

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